

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

In re Application of:)	
)	
Inventors: Peter S. Marx, et al.)	Examiner: Debbie M. Le
)	
Serial No.: 10/765,410)	Group Art Unit: 2168
)	
Filed: January 27, 2004)	Appeal No.: _____
)	
Title: ACQUIRING, MANAGING,)	
DISTRIBUTING, AND PRESENTING)	
CONTEXTUAL DATA RELATING TO A)	
KNOWN POSITION FOR LOCATION-BASED)	
<u>SERVICES TO AND BETWEEN USERS</u>)	

BRIEF OF APPELLANTS

Mail Stop APPEAL BRIEF - PATENTS
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

In accordance with 37 C.F.R. §41.37, Appellants' attorney hereby submits the Brief of Appellants on appeal from the final rejection in the above-identified application as set forth in the Office Action dated March 25, 2008.

Please charge the amount of \$255.00 to cover the required fee for filing this Brief as set forth under 37 C.F.R. §41.20(b)(2) to Deposit Account No. 50-0494 of Gates & Cooper LLP. Also, please charge any additional fees or credit any overpayments to Deposit Account No. 50-0494.

I. REAL PARTY IN INTEREST

The real party in interest is Binary Protocol, LLC, the assignee of the present application.

II. RELATED APPEALS AND INTERFERENCES

There are no related appeals or interferences for the above-referenced patent application.

III. STATUS OF CLAIMS

Claims 1-15 are pending in the application.

Claims 1-15 were rejected under 35 U.S.C. §103(a) as being unpatentable over Hose, U.S. Patent No. 7,024,205 (Hose) in view of Jones, U.S. Publication No. 2002/0069312 (Jones), and further in view of Chan, U.S. Publication No. 2003/0126150 (Chan).

Claims 1-15 are being appealed.

IV. STATUS OF AMENDMENTS

No amendments have been made subsequent to the latest Office Action.

V. SUMMARY OF THE INVENTION

Appellants' invention as recited in independent claim 1 is directed to a contextual location-based service apparatus containing commercial location-based information (108) and user-supplied location-based information (106), comprising: a computer-based infrastructure (102), comprising: at least one database (74) for storing the commercial location-based information (108) supplied by a commercial entity and the user-supplied location-based information (106), including a user-supplied location, supplied by a user other than the commercial entity on at least one location, wherein the user directly stores the user-supplied location-based information (106) in the database (74) which stores both the user-supplied location based information and the commercial location-based information (108) which is retrievable by at least one other user; a context manager (52), coupled to the database (74), for indexing and sorting the commercial location-based information (108) and the user-supplied location-based information (106) stored in the database (74); a contribution engine (54), coupled to the database (74), for entering additional user-supplied location-based information (106) in the database (74), wherein the user directly enters the additional user-supplied location-based

information (106) in the database (74); a locator (56), coupled to the contribution engine (54) and the database (74), for converting a plurality of references to a specific location to a common location designation; a location browser (58), coupled to the database (74), for retrieving and reviewing the user-supplied location-based information (106) in the database (74); and at least one client (66), which communicates with the infrastructure (102), for at least entering and editing the user-supplied location-based information (106) in the database (74).

(See, e.g., page 8, line 1 to page 14, line 23.)

Appellants' dependent claim 2, which is dependent on claim 1, recites that the contextual location-based service apparatus further comprises a link manager (62), coupled to the database (74), for linking a plurality of locations within the database (74) to each other.

(See, e.g., page 9, lines 7 to 14.)

Appellants' dependent claim 3, which is dependent on claim 2, recites that the contextual location based service apparatus further comprises a rating engine (60), coupled to the database (74), wherein the at least one client (66) enters rating information stored in the database (74) about the user-supplied location-based information (106).

(See, e.g., page 9, lines 4 to 6.)

Appellants' dependent claim 4, which is dependent on claim 3, recites that the contextual location based service apparatus further comprises a charge and payment manager (68), coupled to the database (74), for controlling access to information in the database (74) and for collecting fees from a user of a client (66) for accessing the controlled access information in the database (74).

(See, e.g., page 10, lines 3 to 12.)

Appellants' dependent claim 5, which is dependent on claim 4, recites that the contextual location based service apparatus further comprises a mapping engine (76), coupled to the database (74), for providing to the client a visual output of information, thematic information, and metadata-stored in the database (74).

(See, e.g., page 11, lines 1 to 5.)

Appellants' dependent claim 6, which is dependent on claim 5, recites that the contextual location based service apparatus further comprises a route planner (64), coupled to the link

manager (62) and the database (74), for accessing information stored in the database (74) in sequence as the client travels between the plurality of locations.

(See, e.g., page 9, lines 7 to 14.)

Appellants' dependent claim 7, which is dependent on claim 6, recites that the contextual location based service apparatus further comprises an Intellectual Property manager (70), coupled to the database (74) and the charge and payment manager (68), for providing proper access to intellectual property stored in the database (74).

(See, e.g., page 10, lines 13 to 15.)

Appellants' independent claim 8 recites a method for providing contextual location-based information in a system (100) which includes at least commercial location-based information (108) supplied by a commercial entity and user-supplied location-based information (106) supplied by a user of the system other than the commercial entity, comprising: associating a plurality of user-supplied location-based information (106) supplied by the user of the system other than the commercial entity to a transition between locations; entering, using at least one client (66), a plurality of pieces of user-supplied contextual location-based information (106) into a database (74), wherein the user-supplied contextual location-based information (106) includes at least a user-supplied location, is stored directly into the database (74) by the user of the system other than the commercial entity, wherein the database (74) stores both the user-supplied location-based information (106) and the commercial location-based information (108); determining a location reference for each piece of user-supplied contextual location-based information (106); sorting the contextual user-supplied location-based information (106) by determined location reference; accessing the database (74) by a location query, wherein the location query is compared to the determined location reference of the contextual location-based information; and reporting results of the location query to at least one other client (66) wherein the at least one other client (66) is another user of the system (100).

(See, e.g., page 8, line 1 to page 14, line 23.)

Appellants' dependent claim 9, which is dependent on claim 8, recites that the method further comprises entering a fee amount for accessing a specific piece of the user-supplied contextual location-based information (106); and charging the fee amount to a user before,

during, or after the specific piece of user-supplied contextual location-based information is accessed.

(See, e.g., page 13, line 1 to page 14, line 10.)

Appellants' dependent claim 10, which is dependent on claim 9, recites that the method further comprises linking at least two determined location references to each other.

(See, e.g., page 15, lines 10 to 15.)

Appellants' dependent claim 11, which is dependent on claim 10, recites that the method further comprises entering a rating of the user-supplied contextual location-based information for evaluating the user-supplied contextual location-based information entered in the database (74), wherein the at least one client is used to enter the rating.

(See, e.g., page 17, lines 13 to 15 and page 18, lines 17-18.)

Appellants' dependent claim 12, which is dependent on claim 11, recites that the method further comprises storing visual data as at least a portion of the user-supplied contextual location-based information entered in the database (74), for providing to the client (66) a visual output of information stored in the database (74).

(See, e.g., page 13, lines 1 to 8.)

Appellants' dependent claim 13, which is dependent on claim 12, recites that the method further comprises linking a plurality of pieces of user-supplied contextual location-based information (106) in the database (74), for accessing the pieces of user-supplied contextual location-based information (106) stored in the database (74) in sequence.

(See, e.g., page 11, line 16 to page 14, line 24.)

Appellants' dependent claim 14, which is dependent on claim 13, recites that the method further comprises controlling access to intellectual property entered as user-supplied contextual pieces of information (106) stored in the database (74).

(See, e.g., page 10, lines 13 to 15.)

Appellants' independent claim 15 recites a contextual location services system, comprising: a database (74) for storing user-supplied contextual location-based information (106) supplied by a user and commercially-supplied location-based information (108) supplied by a commercial entity other than the user on a plurality of geographic locations, wherein the

user directly stores the user-supplied contextual location-based information (106), including a user-supplied location, into the database (74) which stores both the user-supplied location based information (106) and the commercial location-based information (108), and a client (66), which communicates with the database (74), for retrieving and entering the stored user-supplied contextual location-based information (106), comprising a mobile communications device, wherein the client (66) retrieves the user-supplied contextual location-based information (106) based on geographic location and is able to select one or more pieces of user-supplied contextual location-based information (106) for presentation on the client, wherein presentation on the client includes audio presentation, video presentation, and audio/visual presentation, and the user-supplied contextual location-based information (106) includes at least location information and at least one other piece of information about the geographic location, wherein the client (66) is able to rate the user-supplied contextual location-based information (106) and the client rating is observable by at least one other user.

VI. GROUND OF REJECTION TO BE REVIEWED ON APPEAL

1. Whether claims 1-15 are obvious under 35 U.S.C. §103(a) over Hose, U.S. Patent No. 7,024,205 (Hose) in view of Jones, U.S. Publication No. 2002/0069312 (Jones), and further in view of Chan, U.S. Publication No. 2003/0126150 (Chan).

VII. ARGUMENTS

A. Independent Claims 1 and 8

Appellants' independent claim 1 is directed to a contextual location-based service apparatus containing commercial location-based information (108) and user-supplied location-based information (106), comprising: a computer-based infrastructure (102), comprising: at least one database (74) for storing the commercial location-based information (108) supplied by a commercial entity and the user-supplied location-based information (106), including a user-supplied location, supplied by a user other than the commercial entity on at least one location, wherein the user directly stores the user-supplied location-based information (106) in the

database (74) which stores both the user-supplied location based information and the commercial location-based information (108) which is retrievable by at least one other user; a context manager (52), coupled to the database (74), for indexing and sorting the commercial location-based information (108) and the user-supplied location-based information (106) stored in the database (74); a contribution engine (54), coupled to the database (74), for entering additional user-supplied location-based information (106) in the database (74), wherein the user directly enters the additional user-supplied location-based information (106) in the database (74); a locator (56), coupled to the contribution engine (54) and the database (74), for converting a plurality of references to a specific location to a common location designation; a location browser (58), coupled to the database (74), for retrieving and reviewing the user-supplied location-based information (106) in the database (74); and at least one client (66), which communicates with the infrastructure (102), for at least entering and editing the user-supplied location-based information (106) in the database (74).

The Office Action asserts that Hose teaches all of the elements of the claim except for the limitation of a database storing a user-supplied location based information, including at least a user-supplied location, supplied by a user other than the commercial entity, which the Office Action asserts is taught by Jones or Chan.

Appellants again note that the Office Action admits that Hose does not teach that the database stores both user-supplied location-based information and commercial location-based information (page 4, lines 12-15).

The Office Action's reliance on Jones is misplaced, because Jones teaches that the commercial information (the GIS data) is stored in one database and the Geomarks are stored in another database. (see Jones, [0017] and FIG. 2) As such, any user-supplied location, which is part of the user-supplied location-based information, in the Geomark info database 236 of Jones is not stored in the same database as the GIS data, which is stored in database 232.

The Office Action's reliance on Chan is similarly misplaced, because Chan only allows the user to supply feedback information on a commercially-supplied service or product. The Office Action fails to note that "user-supplied location-based information" includes a user-

supplied location. Further, feedback on service or products is not “location-based information” regardless of whether it is user-supplied, nor is feedback on service or products a “rating” on information.

Further, Appellants traverse the Office Action’s assertion that Hose teaches a contribution engine in Col. 5, lines 1-9 and 65-67 as described in the claims. Hose teaches that subscriber profile information 114, which includes information regarding individual subscribers to a given service that is useful in personalizing the location-based services, and Location Finding Equipment (LFE) inputs 116 (e.g., TDOA determinations). Hose teaches that these can be accessed and received by the system.

Initially, Appellants note that nowhere does Hose state that a user directly enters data into the database through a contribution engine. The service provider is entering the personal information. The TDOA and/or other LFE signals are being entered by the system. The only inputs to the system from the user are queries to the database to retrieve data entered by commercial entities. Hose teaches that “the method involves receiving a service request transmitted by a network subscriber...a service request may be transmitted using a designated keypad service code (e.g., *TRAFFIC, *HOTEL, ...etc.) or in the case of an enhanced phone, by scrolling through a menu or otherwise entering a menu selection. See Hose, Col. 2, lines 26-45 (emphasis added).

The entries in the Hose database are made by commercial entities, not by subscribers or users of the system. Further, any subscriber personal data is not accessible by other users; it is maintained and secured by the service provider.

In contrast, claim 1 of the present invention allows a user (subscriber) to directly enter an entry into the same database that stores the entries from the commercial entities. The contribution engine in the claim allows the user to directly enter this information, including user-provided location, rather than having the system determine the location.

Further, even if TDOA and other system-generated location information discussed in Hose can be said to come from the system, such information only gives the current location of the client unit (if it is a mobile unit). A user of the present invention enters a user-supplied

location, which necessarily includes locations other than their present location, as described in the present specification on page 12, line 12 to page 14, line 23.

As such, Appellants assert that claim 1 is patentable over the cited references for at least these reasons.

2. Dependent Claims 2, 9, and 10

With regards to dependent claim 2, 9, and 10, the Office Action rejects these claims as per claims 1 and 8.

Appellant's attorney respectfully submits that these claims stand or fall with their respective independent claims, and thus are not argued separately.

3. Dependent Claims 3-7 and 11-14

With regards to dependent claims 3 and 11, which recite a rating engine, coupled to the database, wherein the at least one client enters rating information stored in the database about the user-supplied location based information. The Office Action rejects this claim as with claims 1 and 8 respectively, and states that Jones teaches a rating engine in FIG. 5, and paragraphs [0005] and [0023].

Appellants' attorney respectfully traverses that Jones teaches the rating engine as recited in the claims. The rating engine described in Jones describes a user rating a location, not rating the information in the database. So, for example, in Jones, a user may describe a visit to Mount Vernon as "pleasant" or "good for families" in their own database entry (which is stored in a different database than the GIS data as described above). However, Jones does not teach that a user enters rating information about the user-entered location-based information.

Appellant's attorney respectfully submits that claims 4-7 stand or fall with dependent claim 3, and dependent claims 12-14 stand or fall with dependent claim 11, and thus are not argued separately.

4. Independent Claim 15

With regards to independent claim 15, the Office Action again cites Hose, Jones, and Chan.

Appellant's attorney respectfully disagrees. The cited portions of the references do not teach the elements of claim 15 as discussed above with respect to claims 1 and 8, and, further, with respect to claims 6 and 11 regarding the rating engine. Nowhere does any reference teach or suggest at least the limitations of the database (74) which stores both the user-supplied location based information (106) and the commercial location-based information (108), and wherein the client (66) is able to rate the user-supplied contextual location-based information (106), as recited in the claims and discussed herein.

VIII. CONCLUSION

In light of the foregoing arguments, Appellants' attorney respectfully submits that the cited references do not anticipate nor render obvious the claimed invention. More specifically, Appellants' claims recite novel physical features which patentably distinguish over any and all references under 35 U.S.C. §§ 102 and 103.

As a result, a decision by the Board of Patent Appeals and Interferences reversing the Examiner and directing allowance of the pending claims in the subject application is respectfully solicited.

Respectfully submitted,

GATES & COOPER LLP
Attorneys for Appellants

Howard Hughes Center
6701 Center Drive West, Suite 1050
Los Angeles, California 90045
(310) 641-8797

Date: September 25, 2008

AJO/

G&C 200.1-US-U1

By: /Anthony J. Orler/
Name: Anthony J. Orler
Reg. No.: 41,232

CLAIMS APPENDIX

1. (PREVIOUSLY PRESENTED) A contextual location-based service apparatus containing commercial location-based information and user-supplied location-based information, comprising:

- a) a computer-based infrastructure, comprising:
 - 1) at least one database for storing the commercial location-based information supplied by a commercial entity and the user-supplied location-based information, including a user-supplied location, supplied by a user other than the commercial entity on at least one location, wherein the user directly stores the user-supplied location-based information in the database which stores both the user-supplied location based information and the commercial location-based information which is retrievable by at least one other user;
 - 2) a context manager, coupled to the database, for indexing and sorting the commercial location-based information and the user-supplied location-based information stored in the database;
 - 3) a contribution engine, coupled to the database, for entering additional user-supplied location-based information in the database, wherein the user directly enters the additional user-supplied location-based information in the database;
 - 4) a locator, coupled to the contribution engine and the database, for converting a plurality of references to a specific location to a common location designation;
 - 5) a location browser, coupled to the database, for retrieving and reviewing the user-supplied location-based information in the database; and
- b) at least one client, which communicates with the infrastructure, for at least entering and editing the user-supplied location-based information in the database.

2. (ORIGINAL) The contextual location-based service apparatus of claim 1, further comprising a link manager, coupled to the database, for linking a plurality of locations within the database to each other.

3. (PREVIOUSLY PRESENTED) The contextual location based service apparatus of claim 2, further comprising a rating engine, coupled to the database, wherein the at least one

client enters rating information stored in the database about the user-supplied location-based information.

4. (ORIGINAL) The contextual location based service apparatus of claim 3, further comprising--a charge and payment manager, coupled to the database, for controlling access to information in the database and for collecting fees from a user of a client for accessing the controlled access information in the database.

5. (ORIGINAL) The contextual location based service apparatus of claim 4, further comprising a mapping engine, coupled to the database, for providing to the client a visual output of information, thematic information, and metadata-stored in the database.

6. (ORIGINAL) The contextual location based service apparatus of claim 5, further comprising a route planner, coupled to the link manager and the database, for accessing information stored in the database in sequence as the client travels between the plurality of locations.

7. (ORIGINAL) The contextual location based service apparatus of claim 6, further comprising an Intellectual Property manager, coupled to the database and the charge and payment manager, for providing proper access to intellectual property stored in the database.

8. (PREVIOUSLY PRESENTED) A method for providing contextual location-based information in a system which includes at least commercial location-based information supplied by a commercial entity and user-supplied location-based information supplied by a user of the system other than the commercial entity, comprising:

associating a plurality of user-supplied location-based information supplied by the user of the system other than the commercial entity to a transition between locations;

entering, using at least one client, a plurality of pieces of user-supplied contextual location-based information into a database, wherein the user-supplied contextual location-based information includes at least a user-supplied location, is stored directly into the database by the user of the system other than the commercial entity, wherein the database stores both the user-supplied location-based information and the commercial location-based information;

determining a location reference for each piece of user-supplied contextual location-based information;

sorting the contextual user-supplied location-based information by determined location reference;

accessing the database by a location query, wherein the location query is compared to the determined location reference of the contextual location-based information; and

reporting results of the location query to at least one other client wherein the at least one other client is another user of the system.

9. (PREVIOUSLY PRESENTED) The method of claim 8, further comprising: entering a fee amount for accessing a specific piece of the user-supplied contextual location-based information; and charging the fee amount to a user before, during, or after the specific piece of user-supplied contextual location-based information is accessed.

10. (ORIGINAL) The method of claim 9, further comprising linking at least two determined location references to each other.

11. (PREVIOUSLY PRESENTED) The method of claim 10, further comprising entering a rating of the user-supplied contextual location-based information for evaluating the

user-supplied contextual location-based information entered in the database, wherein the at least one client is used to enter the rating.

12. (PREVIOUSLY PRESENTED) The method of claim 11, further comprising storing visual data as at least a portion of the user-supplied contextual location-based information entered in the database, for providing to the client a visual output of information stored in the database.

13. (PREVIOUSLY PRESENTED) The method of claim 12, further comprising linking a plurality of pieces of user-supplied contextual location-based information in the database, for accessing the pieces of user-supplied contextual location-based information stored in the database in sequence.

14. (PREVIOUSLY PRESENTED) The method of claim 13, further comprising controlling access to intellectual property entered as user-supplied contextual pieces of information stored in the database.

15. (PREVIOUSLY PRESENTED) A contextual location services system, comprising:

a database for storing user-supplied contextual location-based information supplied by a user and commercially-supplied location-based information supplied by a commercial entity other than the user on a plurality of geographic locations, wherein the user directly stores the user-supplied contextual location-based information, including a user-supplied location, into the database which stores both the user-supplied location based information and the commercial location-based information, and

a client, which communicates with the database, for retrieving and entering the stored user-supplied contextual location-based information, comprising a mobile communications device, wherein the client retrieves the user-supplied contextual location-based information based on geographic location and is able to select one or more pieces of user-supplied contextual location-based information for presentation on the client, wherein presentation on the client includes audio presentation, video presentation, and audio/visual

presentation, and the user-supplied contextual location-based information includes at least location information and at least one other piece of information about the geographic location, wherein the client is able to rate the user-supplied contextual location-based information and the client rating is observable by at least one other user.

EVIDENCE APPENDIX

None.

RELATED PROCEEDINGS APPENDIX

None.